

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:24-cv-01028-MR**

**VERNELL D. STURDIVANT,**

**Plaintiff,**

**vs.**

**FNU BEELER,**

**Defendant.**

**ORDER**

**THIS MATTER** is before the Court on initial review of Plaintiff's Complaint, [Doc. 1], filed under 42 U.S.C. § 1983. See 28 U.S.C. §§ 1915(e)(2) and 1915A. Plaintiff is proceeding in forma pauperis. [Docs. 2, 5].

**I. BACKGROUND**

Pro se Plaintiff filed this action pursuant to 42 U.S.C. § 1983, on or about November 25, 2024, against Defendant FNU Beeler, identified as a Nurse at the Union County Jail (the "Jail") in Monroe, North Carolina, where Plaintiff is currently detained. [Doc. 1 at 1-2]. Plaintiff alleges as follows. On some unidentified day, Defendant Beeler did not give Plaintiff his blood pressure medication when he was on his way to court. [Id. at 2]. After Plaintiff brought the mistake to Defendant Beeler's attention and told her that

he was “seeing black dots” and “felt [he] was threatening a stroke,” she told Plaintiff she would return with his medication. Defendant Beeler never returned with the medication. On another occasion, Defendant Beeler gave Plaintiff the wrong medication. When Plaintiff told Defendant Beeler that she had given Plaintiff the wrong medication, he returned it to her, and she threw it away. [Id. at 3-4].

Plaintiff claims that he was denied medical attention. [Id. at 4]. For injuries, Plaintiff claims that he “had little black dots floating before [his] eyes,” that he was “really dizzy,” and “felt as though [he] was threatening a stroke[.]” [Id.]. For relief, Plaintiff seeks \$500,000. [Id. at 6].

## **II. STANDARD OF REVIEW**

Because Plaintiff is proceeding pro se, the Court must review the Complaint to determine whether it is subject to dismissal on the grounds that it is “frivolous or malicious [or] fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2). Furthermore, § 1915A requires an initial review of a “complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity,” and the court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint is frivolous, malicious, or fails to state a claim upon which relief may be granted; or seeks monetary relief from

a defendant who is immune from such relief.

In its frivolity review, this Court must determine whether the Complaint raises an indisputably meritless legal theory or is founded upon clearly baseless factual contentions, such as fantastic or delusional scenarios. Neitzke v. Williams, 490 U.S. 319, 327-28 (1989). Furthermore, a pro se complaint must be construed liberally. Haines v. Kerner, 404 U.S. 519, 520 (1972). However, the liberal construction requirement will not permit a district court to ignore a clear failure to allege facts in his Complaint which set forth a claim that is cognizable under federal law. Weller v. Dep't of Soc. Servs., 901 F.2d 387 (4th Cir. 1990).

### **III. DISCUSSION**

To state a claim under § 1983, a plaintiff must allege that he was deprived of a right secured by the Constitution or laws of the United States, and that the alleged deprivation was committed by a “person” acting under color of state law. See 42 U.S.C. § 1983; Am. Mfrs. Mut. Ins. Co. v. Sullivan, 526 U.S. 40, 49-50 (1999); Health & Hosp. Corp. of Marion Cnty. v. Talevski, 599 U.S. 166, 143 S.Ct. 1444 (2023).

A pretrial detainee’s claim based on deliberate indifference to a serious medical need is also properly brought pursuant to the Fourteenth

Amendment. Short v. Hartman, 87 F.4th 593, 611 (4th Cir. 2023). To state such a claim, a plaintiff must allege that:

(1) they had a medical condition or injury that posed a substantial risk of serious harm; (2) the defendant intentionally, knowingly, or recklessly acted or failed to act to appropriately address the risk that the condition posed; (3) the defendant knew or should have known (a) that the detainee had the condition and (b) that the defendant's action or inaction posed an unjustifiably high risk of harm; and (4) as a result, the detainee was harmed.

Id. at 611. Under this standard, “the plaintiff [need not] show that the defendant had actual knowledge of the detainee’s serious medical condition and consciously disregarded the risk that their action or failure to act would result in harm.” Id. “[I]t is enough that the plaintiff show that the defendant acted or failed to act ‘in the face of an unjustifiably high risk of harm that is either known or so obvious that it should be known.’” Id. (quoting Farmer v. Brennan, 511 U.S. 825, 836, 114 S.Ct. 1970 (1994)). It remains, however, insufficient “for the plaintiff to allege that the defendant negligently or accidentally failed to do right by the detainee.” Id. at 611-12.

Taking Plaintiff’s allegations as true and giving him the benefit of every reasonable inference, he has nonetheless failed to state a Fourteenth Amendment claim against Defendant Beeler. That is, Plaintiff alleges only a single instance of the deprivation of his medication and his allegations suggest that he was on his way out of the Jail promptly after the exchange

with Defendant Beeler regarding the medication. Accordingly, Defendant Beeler's alleged failure to timely return with the medication appears nothing more than incidental or, at best, negligent. Moreover, Plaintiff's allegations regarding Defendant Beeler giving him the incorrect medication on another occasion is too vague and insufficient to state a claim for relief. See Fed. R. Civ. P. 8(a)(2) (requiring a "short and plain statement of the claim showing that the pleader is entitled to relief"); Simpson v. Welch, 900 F.2d 33, 35 (4th Cir. 1990) (conclusory allegations, unsupported by specific allegations of material fact are not sufficient); Dickson v. Microsoft Corp., 309 F.3d 193, 201-02 (4th Cir. 2002) (a pleader must allege facts, directly or indirectly, that support each element of the claim).

The Court, however, will allow Plaintiff to amend his Complaint to state a claim for relief in accordance with the terms of this Order. Any amended complaint will be subject to all timeliness and procedural requirements and will supersede the Complaint. Piecemeal amendment will not be permitted.

#### **IV. CONCLUSION**

For the foregoing reasons, the Court concludes that Plaintiff's Complaint fails initial review and will be dismissed without prejudice. The Court will allow Plaintiff thirty (30) days to amend his Complaint, if he so chooses, to properly state a claim upon which relief can be granted in

accordance with the terms of this Order. Should Plaintiff fail to timely amend his Complaint in accordance with this Order, the Court will dismiss this action without prejudice.

**ORDER**

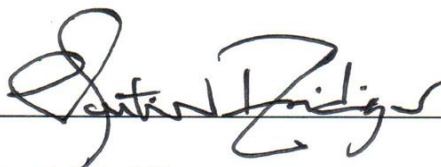
**IT IS, THEREFORE, ORDERED** that Plaintiff's Complaint fails initial review under 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2)(B) for Plaintiff's failure to state a claim for relief and shall be **DISMISSED WITHOUT PREJUDICE** in accordance with the terms of this Order.

**IT IS FURTHER ORDERED** that Plaintiff shall have thirty (30) days in which to amend his Complaint in accordance with the terms of this Order. If Plaintiff fails to so amend his Complaint, the matter will be dismissed without prejudice.

The Clerk is respectfully instructed to mail Plaintiff a blank prisoner § 1983 form.

**IT IS SO ORDERED.**

Signed: December 30, 2024

  
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Martin Reidinger  
Chief United States District Judge

